

**REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION**

~ APPEALS ~

Friday, June 24, 2022
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Scott Biggs.

Staff present to support the Commission: Alexander Watkins, WCC; Lindsey Christopher, WCC; and Monica Pack, WCC.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Russell stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDER.....Presiding Appellate Officer, Commissioner Tilly

Call to order 9:00 a.m. by Commissioner Tilly, Presiding Appellate Officer.

ROLL CALL.....Presiding Appellate Officer, Commissioner Tilly

After the roll call was taken, Commissioner Tilly announced the presence of a Quorum.

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of May 20, 2022, were considered for approval.

Motion: Commissioner Tilly made a motion to approve the Regular Appeals Meeting of May 20, 2022, minutes.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. James Crittenden Jr. v. MITF, File #CM3F-2019-07602A

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. McCaffrey & Associates is the firm of record for the Claimant and Michael Fagan is the attorney of record for the Respondent.

Motion: Commissioner Tilly moved to continue this case to a future appellate meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: APPEAL CONTINUED

2. Donnie Deramus v. City of Tulsa (OWN RISK #10435), File #CM3-2019-03320J

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Travis R. Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Chairman Russell moved deny motion to accept supplemental brief by Respondent and to take preliminary action to strike the language in paragraph 4 of the Findings and Conclusions beginning at, "That this award is not dispositive of claimant's rights to participates in the grievance process attendant to said rights," and authorized the Commission's Chairman to sign and file order on behalf of the Commission by Commission's clerk.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER MODIFIED

3. Kathryn Headrick v. MITF, File #CM3F-2019-04836Y

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. Ray Lahann appeared for the Claimant and Michael Fagan appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

4. Joseph Handley v. Nationwide Fixture Installation Inc. and Hanover American Insurance Co., File #CM3-2019-00808J

Both parties filed an appeal from the order issued by Administrative Law Judge Egan. Darrel Paul appeared for the Claimant and Rose M. Sloan appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm in-part, in regards to consequential injury, and remand in-part, in regards to the intervening accident, and remand back for determination of medical treatment.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: AFFIRM IN-PART AND REMAND IN-PART

5. Billy Pugh v. City of Tulsa (OWN RISK #10435), File #CM3-2015-05784X

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. J. Tim Reese appeared for the Claimant and Travis R. Colt is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. Sango Whitehorn v. Limco Piedmont Inc. and Travelers Property & Casualty Co. of America, File #CM3-2020-02974A

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. M. Scott Ash appeared for the Claimant and Matthew R. Defehr appeared for the Respondent.

Motion: Commissioner Biggs moved to grant motion to dismiss by Claimant.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: APPEAL DISMISSED

7. **Douglas Nail v. Collins Electric Co. of Oklahoma Inc. and National Fire Insurance Co. of Hartford, File #CM3-2018-02036J**

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Kevin B. White is the attorney of record for the Claimant and Clark P. Bushyhead is the attorney of record for the Respondent. Both parties agreed to submit the appeal on record.

Motion: After reviewing the record and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

8. **Crystal Archibald v. Papa Johns Pizza, Ozark Pizza Co. LLC, and Intrepid Insurance Company, File #CM3-2019-04136X**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Kathryn Black appeared for the Claimant and Clark P. Bushyhead appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

9. **Wanda Gibby v. MITF, File #CM3F-2019-07638F**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take this case under advisement.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

C. Commission Consideration of Adoption of Final Orders in the Following Cases:

1. J. Asuncion (Soto) Abonza v. Exterran Holdings Inc. and American Zurich Insurance Co., File #CM3-2015-08100F

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Bret A. Unterschuetz appeared for the Claimant and Michael Fagan appeared for the Respondent.

This case came on for Oral Argument on April 29, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved to approve opinion proposed.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER APPROVED

2. Tracy Minor v. Hobby Lobby Stores Inc. and Indemnity Insurance Co. of North America, File #CM3-2020-05570X

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joseph C. Biscone II and Emily Biscone appeared for the Claimant and James C. Ferguson appeared for the Respondent.

This case came on for Oral Argument on April 29, 2022. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take preliminary action to remand this cause for the taking of additional evidence, in the form of an independent medical examiner, and instructed the Commission's Appellate Council to draft an order, with the Commission's reasoning, to be adopted at a future meeting.

Motion: Commissioner Biggs moved to approve order as circulated.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER APPROVED

3. Earl Appleberry v. Western Flyer Express LLC and United States Fire Insurance Co., File #CM3-2019-07029Q

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Timothy Kent appeared for the Claimant and Travis A. Fulkerson appeared for the Respondent.

This case came on for Oral Argument on November 19, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Chairman Russell moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

4. John Rosson v. Roundtree Automotive Group LLC and State National Insurance Co., File #CM3-2019-03668K

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant. Blake Farris appeared for the Respondent.

This case came on for Oral Argument on December 17, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Chairman Russell moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

5. Rita Morales v. Walmart Stores Inc. and Walmart Associates Inc. (OWN RISK), File #CM3-2015-07958X

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on April 29, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Chairman Russell moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

6. Julian Slater v. MITE, File #CM3F-2019-00356F

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Bob Burke appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Chairman Russell moved to take

preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

Motion: Chairman Russell moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

7. **Raymond Miller v. La Quinta Inn, Global Core Stillwater LLC, and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-00616F**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green appeared for the Claimant and Kelley Bodell appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Chairman Russell moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

8. **Wanda Gibby v. MITF, File #CM3F-2019-07638F**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Chairman Russell moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

ADJOURNMENT

Motion: Commissioner Biggs moved to adjourn the meeting at approximately 1:58 p.m.

Second: Chairman Russell.

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.